

MINUTES
of the
LEGISLATIVE CONSUMER COMMITTEE
March 9, 2006
State Capitol, Room 172, Helena, MT

COMMITTEE MEMBERS PRESENT

Senator Sam Kitzenberg, Chairman
Representative George Groesbeck, Vice Chairman
Representative Walter McNutt
Senator Ken Toole

STAFF PRESENT

Robert A. Nelson, Consumer Counsel
Larry Nordell, Economist
Mary Wright, Attorney
Mandi Shulund, Secretary

VISITORS PRESENT

Casey Barrs, Legislative Services Division
John Fitzpatrick, NorthWestern Energy
Mike Burke, Budget and Program Planning Office
Mike Pichette, NorthWestern Energy
Kris Wilkinson, Legislative Fiscal Division

CALL TO ORDER

The meeting was called to order by Senator Kitzenberg.

MINUTES OF THE PREVIOUS MEETING

MOTION: Senator Toole moved approval of the minutes of the September 14, 2005 meeting.

VOTE: The motion passed unanimously.

FINANCIAL REPORT

The current financial report was presented to the committee. Most categories run a month or two behind. The largest and most difficult category to predict is contracted services, which roughly amounts to 60% of the budget. At this time, Bob does not

anticipate using any of the contingency fund and does not have any concerns elsewhere with the budget. Senator Toole asked for more information regarding staff compensation time and exempt status.

Bob asked for committee approval for MCC to become a member of the National Association of State Utility Consumer Advocates (NASUCA). NASUCA is open to any government sponsored and appointed rate payer advocates independent from Public Service Commissions and currently 45 states are members. NASUCA has been active in the area of telecommunications but with the Energy Policy Act of 2005 and recent FERC rulemaking activity, NASUCA has become more active in the energy area. Bob feels it would be more efficient providing input through participation in NASUCA rather than directly in policy and rulemaking before federal agencies. Last fall, MCC applied for and was granted membership.

MOTION: Senator Toole moved approval of MCC becoming members of NASUCA and paying annual dues.

VOTE: The motion passed unanimously.

BOB NELSON PROVIDED THE FOLLOWING HIGHLIGHTS OF CASES CURRENTLY PENDING:

NorthWestern Energy

D2003.6.77/D2004.6.90 - Annual Electric Default Supply Trackers: On 5/27/05 Dr. John Wilson filed testimony on MCC's behalf expressing concern for how QF replacement costs were going to be calculated. MCC entered into a stipulation with NWE on this issue and the Commission approved the stipulation in Final Order 6574e issued on 12/6/05. Dr. Wilson also had concerns about the treatment of lost revenues associated with demand side management. On a 3-2 vote the Commission approved a lost revenue tracking adjustment mechanism. The mechanism would entail performing a calculation of how much sales reduction there is related to DSM and then the sales reduction would be multiplied by the fixed cost portion of the rate

included in the commodity cost component which then would be accrued and carried forward in the tracker to be recovered in a subsequent period. Lost revenues from the previous year would be compared and determined by an index based on the most recently approved base rate case where base rates were set in the fixed cost recovery component. The amount estimated in this tracking year is about \$273,000, but this amount will be trued up based upon some kind of program evaluation in a subsequent period. The Commission also asked NWE for a cost benefit report, which is due September 2007.

D2005.5.88 - Annual Electric Default Supply Tracker: NWE did not request a large increase initially but did revise their filing due to the rise in electric prices. The Commission issued Interim Order 6682b on 10/14/05 approving the increase but excluding the lost revenue component, which had grown to about \$1 million, because it was still undecided in the previous case. On 11/21/05 Dr. John Wilson filed testimony on MCC's behalf, raising several issues. NWE did not include QF base volumes at prices agreed upon in the previous restructuring docket settlement. Dr. Wilson also felt the amount of the dispatch for the Basin Creek plant and the prices they assumed for short term purchases up to \$100 a megawatt hour were very pessimistic and after reviewing NWE's purchases, Dr. Wilson concluded they were relying to heavily on short term purchases. A sale to Avista Energy at below market prices is costing NWE around \$1.75 million per year. This sale came about due to anticipation of excess power from the MFM plant in Great Falls needing to be sold and since this never came about Dr. Wilson felt rate payers should not be responsible for paying those cost differentials. Dr. Wilson also commented on the DSM activity, specifically how the lost revenue adjustment is calculated. He felt NWE calculated how much DSM was available for a certain cost then assumed that amount would be achieved over a 20 year period, associating lost revenues with that. However, NWE would not be spending as much to acquire the DSM, which leaves an uncertainty between what NWE is actually doing and the amount of lost revenues they are claiming. A hearing is scheduled for 3/22/06. Senator Toole asked if NWE is locked into providing power at a certain price regardless of where the

power comes from. Bob understood this to be true and said there were several contracts staggered and running for a multi-year period.

N2005.12.172 – 2005 Electric Default Supply Procurement Plan: This plan can be found at www.montanaenergyforum.com and comments are due on 3/24/06. Larry Nordell is active on the Technical Advisory Committee and said the plan follows a pattern standard with previous plans consisting of long term analysis and a near term action plan. The long term plan is fairly straight forward with a load forecast, a discussion of current resources and an expiring contract. The plan also addresses demand side resource availability and constructing portfolios of resources for future power needs and builds a variety of alternative portfolios of different combinations of resources, which are then analyzed for possible risks due to the uncertainty of future prices. The risk analysis is quite thorough, having been discussed for many years by the Technical Advisory Committee. Senator Toole recalled, while participating in this process, reviewing projections of cost effective prices and determining how much could be purchased. Larry said this is still happening and does set the amount of DSM sought but does not set the amount contributed. Senator Toole asked if, regarding the risk analysis work, there has been discussion about environmental factors, such as carbon and what a carbon tax would entail. Larry said that two price levels of carbon tax had been discussed. A lower level would not have much impact on the preferability of coal resources and a higher level could make coal more problematic. Larry was concerned by the resource analysis being based on generic resources modeled and priced according to the NWPPC analysis because using generic resources to model future choices is fine if the resources are built by the utility. The current plan does not commit to NWE building their own resources, but there has been a considerable amount of discussion about building and owning resources. NWE sees problems with reliance on power purchasing contracts but do not feel they have clear legal authority to build and own generation at this time. NWE has been asking for guarantees of never being penalized for not building once they have the ability to build, which could interfere with the Commission's ability to perform prudence reviews. The near term action plan was very vague. NWE said

they would continue discussing supply options of market participants, issue an RFP early next year and view opportunities to share in resource developments with other utilities. None of these items offer specific commitments but NWE did provide the Technical Advisory Committee more detail, saying an auction for bridging contracts will be proposed in May for the PPL contracts expiring 6/07. Once Commission feedback is given on the resource plan, NWE will put together an RFP for longer term resources to be issued next fall, and in the spring of 08 an RFP will be issued for renewable resources to be effective in 2010. A hearing is scheduled for 4/12/06.

D2005.11.167 - Electric Trackers: The December Electric Tracker filed 11/15/05 resulted in a residential rate decrease to \$.047127/kWh, or 5.6%; The January Electric Tracker filed 12/15/05 resulted in a residential rate increase to \$.051435/kWh, or 9.1%; The February Electric Tracker filed 1/17/06 resulted in a residential rate decrease to \$.047434/kWh, or 7.78%; The March Electric Tracker filed 2/15/06 resulted in a residential rate decrease to \$.045124/kWh, or 4.87%.

D2005.5.87 - Annual Gas Tracker: On 1/5/06 George Donkin filed testimony on behalf of MCC and a hearing was held on 2/28/06. Mr. Donkin concluded that NWE had been imprudent in their practices because so far they had not injected as much gas into storage as they could have knowing how much gas storage capacity they had during the summer or injection season. Mr. Donkin appeared to have taken a conservative approach on this issue by assuming NWE would inject gas consistently during the injection season, including the higher priced gas towards the end. At the time Mr. Donkin filed testimony, he calculated about \$9 million in savings, but he knew that number would have to be lowered some due to lower gas prices at the end of the withdrawal season. The briefing phase is currently underway.

N2005.6.101 - Application for Approval of Natural Gas Procurement Plan: A mutual interest is shared in reducing some risk faced by NWE and doing similar things in the electric procurement plan that take place in the gas area, specifically, according to George Donkin, getting NWE to engage in financial hedging practices he feels

would help control gas price volatility. Mr. Donkin filed testimony on 10/7/05 reiterating his interest in hedging programs and suggesting that NWE waited too long to implement a program. Mr. Donkin tried to get the Commission to issue an immediate interim implementation of financial hedging. The Commission issued Interim Order 6683b on 1/13/06 largely adopting NWE's proposal but moving the process more quickly along. Although some specifics discussed in this proceeding were not adopted by the Commission, Bob is hopeful that NWE will adopt sooner than later some kind of hedging program.

D2005.6.106 - Investigation of Universal System Benefits: Larry filed testimony on 9/15/05 recommending NWE increase the low income discount for both gas and electric to 25%. The Commission issued Interim Order 6679a on 11/2/05 increasing electric to 25% and gas to 30%. At the same time, the Commission decreased non-heating season discounts to 15% for electric and 0% for gas, or in other words, took funding from the non-heating season to fund the heating season. The Commission also increased energy share and weatherization allocations but decreased other allocations to market transformation and renewables. Because of the Interim Order, the low income discount portion of the USB for electric had increased to 40% of the funds collected as compared to large customers getting 36% of the overall USB funds. The Commission has yet to consider permanent allocations.

D2004.11.186 – 2005 Electric and Natural Gas Tax Tracker Filing: This filing resulted from the law passed a few legislative sessions ago allowing utilities to track non income tax increases. This case is from the 2005 projected year and the Commission made some adjustments supported by MCC. The main issue here was whether NWE had to reduce the amount claimed to take into account deductibility for income tax purposes, roughly a 40% impact. NWE asserts there is no impact from deductibility while the law provides for taking income tax deductibility into account. The Commission has taken a more literal interpretation of the law and applied it to a deductibility provision. Final Order 6621a was issued on 11/2/05.

Lewis and Clark County Cause No. BDV 2006-35, NWE v. Montana Department of Public Service Regulation: NWE has appealed Final Order 6621a in D2004.11.186 to Lewis and Clark District Court. MCC filed a motion to be joined as a party because MCC is supporting the Commission's interpretation of the law.

D2005.12.170 – 2006 Electric and Natural Gas Tax Tracker Filing: This is the current tax tracker filing, which projects the 2006 tax levels, and MCC has taken the same position as in the prior proceeding. Electric increases are about \$13 million and gas increases are about \$5 million. A hearing was held on 1/5/06 and as a result, MCC added comments in the briefing phase indicating concerns about how tax increases were being allocated to transmission components of rates due to large FERC jurisdictional transmission activity. This leaves the question of whether some increases should be allocated to customers paying those FERC jurisdictional rates, not just to the default supply customers. Final Order 6716 was issued on 2/13/06, disallowing several items such as the increase attributable to what appeared to be increases in the original cost of regulated property, decreases in the original cost of unregulated property and related taxes, and tribal tax increases. In effect, these disallowances reduced the claimed amounts by roughly 50% and NWE has filed a motion for reconsideration and rehearing.

D2005.9.133 - Gas Trackers: The October NWE Gas Tracker filed 9/15/05 resulted in a gas cost increase from \$7.92 to \$8.91 (Residential rates increased from \$11.05 to \$12.04, or 9%); The November Gas Tracker filed 10/17/05 resulted in a gas cost increase from \$8.91 to \$9.77 (Residential rates increased from \$12.04 to \$12.89, or 7%); The December Gas Tracker filed 11/15/05 resulted in a gas cost decrease from \$9.77 to \$8.61 (Residential rates decreased from \$12.89 to \$11.74, or 9%); The January Gas Tracker filed 12/15/05 resulted in a gas cost increase from \$8.61 to \$10.26 (Residential rates increased from \$11.74 to \$13.39, or 14% with an additional \$0.99 increase disallowed by the PSC); The February Gas Tracker filed 1/17/06 resulted in a gas cost decrease from \$10.26 to \$8.53 (Residential rates decreased from \$13.39 to \$11.76, or 12.9%); The March Gas Tracker filed 2/15/06

resulted in a gas cost decrease from \$8.53 to \$7.56 (Residential rates decreased from \$11.76 to \$10.80, or 8.2%). Senator Toole asked Bob if the Commission has begun looking into the potential of reintegrating NWE, saying he was interested in participating but was not sure of the route the Commission would be taking. Bob said that MCC has supported this effort in comments to entities such as the ETIC over the years and Bob understands that the Commission has asked its staff to work with MCC and NWE. A meeting date is currently being set and Bob assumes other utilities will be interested in participating as well. At this point the process is expected to be somewhat informal, but could become more formal as the Commission becomes involved. Senator Toole asked when the lease on Kerr Dam will expire and asked what would then happen to that major source of generation, assuming the tribes will be taking back the lease. Larry was not aware of any discussion on this topic for the past several years and offered to look into it.

ER99-3491, EL05-125 - Triennial Market-Based Rate Update: Many procedural filings have recently been made in this docket and MCC filed final comments on PPL's delivered price tests that FERC required them to file. MCC feels PPL continues not to meet requirements for retaining market based rate authorization and emphasized that PPL's analysis has not addressed market power over long term firm supply. PPL is focusing on short term spot market purchases, basically analyzing the wrong market which MCC hopes FERC will be sensitive to, due to the reliance on short term spot purchases being the cause of the energy crisis in California. MCC also emphasized that FERC has the authority and obligation to consider anti-trust principals as part of this process. Therefore, PPL can not, as they have threatened to do, withhold sales from NWE if they do not get a favorable outcome from this proceeding. FERC has indicated they would issue a decision about two months after the final submission. Senator Toole asked if a FERC decision would be appealable to Federal Court and if so, would the decision go into place if appealed. Bob said that FERC decisions are appealable to Federal Court and some disagreement would more than likely occur over suspending the decision pending court action. MCC's position would be to have the decision put into effect

and technically, as of 9/1/05, everything being done is subject to refund, but MCC would like to see something more definite in place.

Montana Dakota Utilities

D2005.9.148 – General Gas Increase Request: MDU filed this application on 9/29/05 and requested about a \$1.1million, or 5.7% increase in non gas costs. MDU also made some proposals relating to revenue stabilization which would adjust out the affects, for example, of weather and fluctuations in normalized gas. MCC filed discovery, but MDU in turn filed a Notice of Withdrawal to the Commission, which has been approved, so this case has been dismissed.

D2005.5.78 - Monthly Gas Cost Tracker: The November monthly tracker filed 10/10/05 resulted in an increase of \$2.01/dk showing current gas costs of \$12.46/dk; The December monthly tracker filed 11/10/05 resulted in an increase of \$0.18/dk showing current gas costs of \$12.64/dk; The January monthly tracker filed 12/9/05 resulted in a decrease of \$2.29/dk showing current gas costs of \$10.36/dk; The February monthly tracker filed 1/10/06 resulted in an increase of \$.95/dk showing current gas costs of \$11.31/dk; The March monthly tracker filed 2/10/06 resulted in a decrease of \$1.68/dk showing current gas costs of \$9.63/dk. Bob said that he spoke with Representative Stahl, as requested by Senator Kitzenberg at the last meeting, and found out that Saco owns its own gas wells and does sell gas to Rainbow Gas, a subsidiary of MDU. Representative Stahl assured Bob that they would only sell at market prices determined by referencing a CIG delivery point. Saco uses the differential to finance infrastructure improvements in their water and sewer utilities.

D2003.4.49, D2004.4.55, D2004.5.69 – Annual Gas Tracker Reviews: On 2/23/06 George Donkin filed testimony on MCC's behalf. Mr Donkin analyzed how MDU handled both flowing and storage gas, which is different than NWE's procedure, and Mr. Donkin found this to be a problem. MDU has a slightly larger storage capacity that has been filled over the past several years, including this past year prior to the

heating withdrawal season, so Mr. Donkin concluded MDU had appropriately handled their storage transactions. MDU purchases from about 20 suppliers, mostly on gas index contracts, and has not been using financial hedges. Mr. Donkin urged the Commission to require MDU to do so in order to control the volatility of gas prices. A hearing is scheduled for 5/10/06.

D2005.10.156 – Application for Natural Gas Conservation Program: This case is similar to some of the lost revenue adjustment mechanisms previously discussed. Interim Order 6697 was issued on 11/3/05 approving the application. MCC filed a Motion for Reconsideration, largely due to the fact that the NWE case was still pending and lost revenue adjustment mechanism issue had not been resolved.

D2005.9.139 – Integrated Electric Least Cost Resource Plan: MDU is still subject to the older requirements for filing Integrated Resources Plans because they are not restructured. MCC and DEQ filed comments.

D2006.1.2 - PSC Investigation and Direction on Electric and Natural Gas USB: The Commission has instituted an investigation regarding MDU's USB programs because they have gone unreviewed due to the focus being on NWE. MCC has intervened in this docket.

Energy West

D2004.8.113 - EWM Monthly Gas Tracker: The November monthly tracker filed 10/11/05 resulted in a residential rate decrease to \$11.55/Mcf; The December monthly tracker filed 11/10/05 resulted in a residential rate decrease to \$10.78/Mcf; The February monthly tracker filed 1/6/06 resulted in a residential rate increase to \$10.94/Mcf; The March monthly tracker filed 2/10/06 resulted in a residential rate decrease to \$9.65/Mcf; The April monthly tracker filed 3/8/06 resulted in a residential rate decrease to \$8.16/Mcf.

D2005.12.177 – USB Charge and Annual Reconciliation of Gas Costs: EWM has over collected a substantial amount for USB programs and are requesting authorization to donate \$500,000 to Energy Share. EWM also requested authorization to make their own allocation decisions on USB funds so they could be flexible in reallocating those funds rather than having the Commission determine the allocations. MCC has intervened in this docket.

PacifiCorp

D97.7.91 - PacifiCorp Restructuring Plan & Cause No. ADV 2004-955: This case relates to stranded benefits that PacifiCorp has received. MCC appealed the Commission's decision to District Court and received an adverse decision on 11/10/05. The District Court decision found that PacifiCorp's plan had resulted in stranded benefits and therefore, a windfall to the utility. The decision also stated that the sole issue in this case was whether the Commission had authority to distribute that windfall to rate payers since the legislature never contemplated a remedy for such a windfall. MCC disagrees because prior to the restructuring law, well established mechanisms were in place for handling this type of windfall on the sale or transfer of utility property and everything should have been interpreted in light of the preexisting law that wasn't specifically repealed by that restructuring act. MCC has filed notice of appeal to the State Supreme Court.

Cut Bank Gas Company

D2004.3.47 - General Rate Increase: This filing requested an increase of \$55,000. Frank Buckley filed testimony recommending a \$100,000 decrease based on tax adjustments and a different return on equity. MCC supported CBG in requesting the opportunity to file supplemental testimony, which the Commission granted. CBG revised their request to a \$5,000 increase and MCC entered into a stipulation with CBG for roughly a \$19,000 decrease and an over collection of \$68,000 to be refunded over the next four years. It appeared that CBG had been implementing

trackers to follow the NWE changes in gas prices, which CBG did not have explicit authority to do, so part of the settlement was to true-up those trackers.

D2006.2.15 – General Gas Rate Increase: This is a new general rate case requesting an increase of \$159,000. CBG would like to recover the increase primarily from fixed charges, which MCC generally does not favor. MCC has intervened in this case.

Mountain Water

D2005.4.49 - Application to Increase Water Rates: This filing requested a 10% increase in rates. MCC and MWC filed a stipulation proposing a reduction by half, part of the difference being recommendations in return on equity. MCC agreed to a separate implementation of an interim and final amount of \$836,000, which the PSC recently approved. The City of Missoula is still involved in this case, contesting the allocation of costs to fire protection. MWC charges the city for fire protection water flows and the city feels they are not the beneficiary of the fire protection flows and should not have to pay for it. The city asked that the Commission shift the responsibility to the rate payers to allow more flexibility with their taxing ability. The Commission feels the city is not the beneficiary and budget difficulties the city faces due to tax limitations were irrelevant to the Commission's determination. The Commission also required customers in Missoula still on flat rate be switched to metered service. On this issue, MWC filed a Motion for Reconsideration because the metering issue had not been discussed on the record and this decision seemed to lack a reasonable basis for shifting the fire flow costs to rate payers. MCC filed comments recently in support of MWC's Motion for Reconsideration.

Miller Oil Company

D2004.10.168 – Application for Propane Rate Increase: This application requested a propane rate increase of \$66,387, a 17% overall increase. The Commission issued Final Order 6632a on 10/26/05 approving MCC's stipulation with Miller Oil. The

stipulation provided for a \$38,575 increase, but recovery of a \$95,566 overcollection, so rate would not be increased for 30 months.

City of Great Falls

D2005.7.110 - Application to Operate a Limited Electricity Supply Program: Great Falls is currently licensed by the Commission to supply electricity, but have only provided electricity to themselves. MCC is concerned with the possibility of double collections of transmission charges. CGF filed an amended petition in January adding Electric City Power, Inc. as a petitioner because they determined it would benefit them to operate as a wholly owned non profit subsidiary. CGF is seeking authority to provide service to additional smaller customers, which is stated in terms of a limited pilot program, but it appears the ultimate interest is signing up enough customers to provide financing certainty for their interest in the Highwood Generating Station. CGF filed a study from consulting firm RW Beck that attempted to show that remaining utilities would still benefit by Great Falls customers going to Electric City Power, basically by assuming those customers would be taken off the marginal power component being taken from the short term spot purchase market. Bob feels these assumptions are questionable and the Commission has set a hearing for 6/28/06.

N2006.2.13 - Application (Electric City Power) for License to Supply Electricity: This application is for a license to supply all classes of customers, including small customers. The Commission recently denied this application, without prejudice, because it was not indicated whether customers had been notified of their transfer to ECP. Also, ECP had not complied with the financial integrity requirements of the licensed supplier and licensing rules.

D2006.1.11 – Petition to Amend ARM § 38.5.8005: This is a petition by the City of Great Falls to amend a rule requiring licensed suppliers to have a maximum required contract length of three months with smaller customers. CGF has petitioned that the contract term for smaller customers be 5 years which relates to them wanting

financing certainty. MCC has supported this rule in the past because it appeared customers would benefit and competition would be better served if customers were able to move freely from supplier to supplier, so MCC filed comments not supporting the petition for rule change. Senator Toole asked what Electric City Power's structure was, and Bob said it is a non profit corporation wholly owned by the City of Great Falls. Senator Toole said that if their interests were in securing a revenue stream for investment in a plant, it seemed to him that if they were structured as a cooperative or a public utility, they would have access to different types of capital. Bob feels that CGF 's position is, in effect, they will be a public power entity so they must hold the opinion that they would be eligible for favorable treatments, such as low interest subsidized loans. Representative Groesbeck asked Bob what the procedure was for changing or amending administrative rules. Bob said that there were different ways it can be done, but in this case CGF filed a petition that the Commission will either issue a Notice of Intent to amend the rule and allow comments or issue a finding that they are not going to amend the rule, explaining why not.

Rules

N2005.8.124 - Renewable Energy Rules: SB415, passed during the 2005 legislative session, required the Commission to adopt rules by 6/1/06 in the areas of renewable energy credit tracking system, system for certifying eligible renewable resources, process for granting waivers, advanced approval process, and requirements for renewable energy procurement plans and reports. MCC filed comments urging the Commission not to separate the renewable energy credits portion of the analysis from the electricity cost portion. The Commission felt that the actual electricity costs may be subject to the comparison of the otherwise available prices which did not necessarily mean the renewable energy credit portion needed to be. The Commission requested informal comments on alternatives for adopting a notice of rule making. The first alternative was it would be stated that it is not possible to reconcile the cost cap provisions with the renewable energy credit provisions so the

rule basically would be silent on this particular problem and utilities would have to raise it on a case by case basis for resolution in contested cases. The second alternative proposed was that it was not possible to reconcile the cost cap provisions with the renewable energy credit provisions, but the Commission would conclude that the legislature did intend to protect consumers, so the Commission should establish some linkage between consumer protection and renewable energy credits. The linkage proposal was for non restructured utilities and there is a provision in the bill that says the cost of renewable energy should not exceed 115% of otherwise available power. The Commission then proposed the second alternative of adopting the 115% standard as a consumer protection level for renewable energy credits. Senator Toole asked if in calculating costs, could the renewable energy tax credit be taken out and if so, what the renewable energy credit part of this would be. Bob said that as opposed to buying actual renewable energy, green tags could be purchased. The Commission said that SB415 tells the utility they don't have to, notwithstanding the renewable energy standards, buy renewable energy, at least the electricity, to the extent that that electricity would cost more than other options.

LARRY NORDELL PROVIDED THE FOLLOWING UPDATE ON MERCURY EMISSION RULES:

Larry was going to address mercury emission rule issues but Senator Toole asked that this topic be delayed until next meeting. In the mean time, Larry handed out background information.

LARRY NORDELL PROVIDED THE FOLLOWING UPDATE ON GRID WEST:

In December, BPA presented the GridWest participants with a set of demands for changes in the governance and structure of the proposal. The demands were unacceptable to the rest of the filing utilities by means of the transmission owners involved and unacceptable to a large percentage of the stake holders present. The board members voted down the proposal and, in turn, BPA said they would no

longer participate and would try to form a separate transmission entity. BPA is calling their efforts Columbia Grid, which is basically made up of the State of Washington and BPA's transmission system in surrounding states. The problem they will more than likely run into is the same contentious group of participants trying to ensure no loss of control over BPA by its customer group. The remaining participants of Grid West decided to continue without BPA but have suffered a few losses. British Columbia Transmission Corporation, which was a major funding source of Grid West, decided they would no longer continue participating in or funding GridWest, but did not commit to Columbia Grid. Sierra Pacific, a Nevada utility, also decided to drop out of Grid West. NWE is still trying to figure out how to proceed and wonder if there are still benefits with a smaller group of participants. Representative McNutt asked Larry if he saw any progress being made with BPA outside of the system. Larry said immediately after BPA pulled out the group became much less contentious because most disputes involved much of BPA's customers resisting any changes in the operation of the transmission system that would potentially make their lives more difficult or threaten their ability to exert leverage on BPA.

MARY WRIGHT PROVIDED THE FOLLOWING HIGHLIGHTS OF TELECOM CASES CURRENTLY PENDING:

Eligible Telecommunications Carrier Cases

D2004.1.6 – Triangle Telephone Systems, Inc.; D2004.3.38 – Range Telephone Cooperative; D2004.1.5 – InterBel Wireless, Inc.: MCC has intervened and filed discovery in each of these cases. In D2004.3.38, Range Telephone is over building Qwest's facilities in the Forsyth exchange and MCC has decided not to file testimony.

Extended Area Service

D2003.12.170 - Western Montana Local Calling Coalition: This case makes a local area out of the Flathead Indian Reservation and surrounding various cities and towns. The Commission approved the filing and the providers involved, which are CenturyTel, Ronan and Hot Springs, have 180 days from that date to implement new EAS.

Court Cases

Cause No. CV 03-20-H-CCL: Ronan Telephone Company v. PSC and MCC: This case is now pending before the 9th Circuit of Appeals in San Francisco, but Mary feels that the case will be settled and not much court action will be necessary.

Cause No. CDV 2003-464 – Qwest v. PSC and MCC: All briefs have been filed in this case and a decision is pending.

Arbitration

D2005.12.174 – Level 3 Communications: This petition was filed for arbitration of an interconnection agreement with Qwest. Level 3 is a competitive local exchange carrier based in Colorado that has an interconnection agreement with Qwest now, but it wants various changes made, and can not agree with Qwest on many issues, which are now before the Commission. Bob added that when the Federal Telecommunications Act established this process and was implemented by state law, MCC was named a party to these arbitrations, so MCC has participated in a few cases in the past when precedent setting issues are at stake.

HIRING OF EXPERT WITNESSES

MOTION: Representative McNutt moved approval to hire the services of the following expert witnesses:

D2005.6.101 – NWE Approval for Natural Gas Procurement Plan: George Donkin

D2005.12.170 – NWE Application for Automatic Rate Adjustment and Tracking for Taxes and Fees: Al Clark

D2005.9.148 – MDU Application for Increased Natural Gas Rates: George Donkin, Steve Hill and Al Clark

D2005.12.174 – Level 3 Communications Petition for Arbitration: Al Buckalew

D2006.5.105 – PSC Investigation and Direction on Qwest's Use of Federal Universal Service Funds: Al Buckalew

D2005.10.156 – MDU Application for Approval of Natural Gas Conservation Programs: George Donkin

D2005.7.110 – City of Great Falls Application to Operate a Limited Electricity Supply Program: John Wilson

VOTE: The motion passed unanimously.

Public Comments

Based on HB94 requirements, a public comment period was offered, but none was given.

Adjournment

There being no further business to come before the committee, the meeting adjourned.

Respectfully submitted,
_____, Robert Nelson, Consumer Counsel

Accepted by the Committee this ____ day of _____, 2006
_____, Chairman